

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

LAKESHIA L. MCNEAL, on behalf of	)	
J.L.M., a minor child,	)	
	)	
Plaintiff,	)	
vs.	)	NO. CIV-11-1104-HE
	)	
MICHAEL J. ASTRUE, Commissioner	)	
of the Social Security Administration,	)	
	)	
Defendant.	)	

**ORDER**


Plaintiff Lakeshia L. McNeal filed this action seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying her application for supplemental security income benefits (“SSI”) under the Social Security Act on behalf of her minor son, J.L.M. Consistent with 28 U.S.C. § 636(b)(1)(B) and (C), the case was referred to Magistrate Judge Shon T. Erwin, who recommends that the Commissioner’s decision be reversed and the matter remanded for further proceedings. The magistrate judge found the Administrative Law Judge (“ALJ”) had failed at step three of the sequential evaluation to properly consider the evidence pertaining to whether J.L.M.’s physical limitations functionally equal a listed impairment. Specifically, he concluded that the ALJ had not evaluated the opinion of J.L.M.’s treating physical therapist properly.

The parties, having failed to object to the Report and Recommendation, waived their right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Erwin’s Report and

Recommendation, **REVERSES** the final decision of the Commissioner and **REMANDS** the case for further proceedings consistent with the Report and Recommendation, a copy of which is attached to this order.

**IT IS SO ORDERED.**

Dated this 28th day of January, 2013.



JOE HEATON  
UNITED STATES DISTRICT JUDGE